IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3670 OF 2007

The United Church Board for World Ministries ...Petitioner

Versus

Manorama Developers & Ors. ...Respondents

.....

Mr.R.V.Govilkar for Petitioner.

None for Respondents.

.....

CORAM: A.M.KHANWILKAR, J.

JULY 6, 2007.

P.C.

1. Heard Counsel for the Petitioner.

2. I see no propriety in interfering with the discretionary and interlocutory order passed by the Court below. The conclusion reached by the Appellate Court is obviously on the finding that the Appellant before it namely Plaintiff was in possession of the suit property. The status of such possession has been found as one of licensee.

The view taken by the Appellate Court was also taken in the opinion recorded on the earlier occasion by the Trial Court at the first instance. The fact that the Plaintiff is in possession of the suit property pursuant to the documents executed between the parties, that finding of fact will bind this Court. At this interlocutory stage, therefore, no fault can be found with the view so taken by the Appellate Court. On that finding, possession of the Plaintiff obviously will have to be protected. That is the limited injunction granted by the Appellate Court in the present case. Indeed, the injunction will not preclude the Petitioner to take recourse to such other remedy as may be permissible by law to obtain possession of the suit property. In other words, the Petitioner will be free to take possession of the suit property by due process of law. For the present, no interference is required. Dismissed.

3. It is made clear that the Trial Court shall decide the main proceedings on its own merits uninfluenced by any of the observations made in the impugned order or for that matter, the present

order. My attention has been invited by the Counsel for the Petitioner to the direction issued to the Trial Court to dispose of the Suit. I am informed that the Suit has not progressed further even an inch.

4. The Trial Court, therefore, shall ensure that the Suit is disposed of expeditiously and not later than end of January 2008.

5. The parties shall appear before the Trial Court on 16th July 2007 when the Trial Court shall reschedule the date for hearing of the Suit to ensure that the Suit is finally disposed of within the specified time.

A.M.KHANWILKAR, J.